



Billing Code 3720-58

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Policy and Procedural Guidance for Processing Requests to Alter US Army Corps of Engineers Civil Works Projects

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice.

SUMMARY: The US Army Corps of Engineers (USACE) has issued Engineer Circular (EC) 1165-2-220, Policy and Procedural Guidance for Processing Requests to Alter US Army Corps of Engineers Civil Works Projects Pursuant to Section 408. This agency policy document provides the policies and procedures related to how USACE will process certain requests by others to alter a USACE Civil Works project under Section 14 of the Rivers and Harbors Act of 1899 (more commonly referred to as Section 408). The draft version of this EC was made available for public comment from February 5, 2018 to April 6, 2018. USACE reviewed and considered all comments received, and revised the EC to reflect those comments to the maximum extent possible. The final EC is available on the USACE publications website (<http://www.publications.usace.army.mil/>) and via hyperlink on the USACE Section 408 website (<http://www.usace.army.mil/Missions/Civil-Works/Section408/>). The EC is effective beginning September 10, 2018.

DATES: The EC is applicable beginning September 10, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Tammy Conforti at 202-761-4649, email *HQ-Section408@usace.army.mil*, or visit *http://www.usace.army.mil/Missions/Civil-Works/Section408/*.

SUPPLEMENTARY INFORMATION: Section 14 of the Rivers and Harbors Act of 1899, as amended, and codified in 33 USC 408 (Section 408) provides that the Secretary of the Army may, upon the recommendation of the Chief of Engineers, grant permission to other entities for the permanent or temporary alteration or use of any USACE Civil Works project. This requires a determination by the Secretary that the requested alteration will not be injurious to the public interest and will not impair the usefulness of the USACE project.

The draft version of this EC was made available for public comment from February 5, 2018 to April 6, 2018 (see 83 FR 5075). The comments received on the draft EC are posted at *www.regulations.gov* in docket number COE-2018-0003.

USACE published Engineer Circular (EC) 1165-2-220, Policy and Procedural Guidance for Processing Requests to Alter US Army Corps of Engineers Civil Works Projects Pursuant to 33 USC 408, to update processes related to how USACE will review certain requests by others to alter a USACE Civil Works project. For example, other entities may want to alter a Civil Works project to increase recreational opportunities; improve flood risk management; or construct a road, transmission line, or pipeline. The purpose of the Section

408 review is to ensure that the Congressionally-authorized purpose and benefits of the Civil Works project are protected and maintained (e.g., flood risk management, navigation, coastal storm damage reduction) and to ensure that what is being proposed is not injurious to the public interest. An effective and efficient review of proposed alterations to Civil Works projects protects taxpayer investments in water resources infrastructure, while ensuring compatibility with new infrastructure or improvements.

Process improvements include greater delegation of decisions; introduction of a multi-phased review option for incremental reviews; timelines for written notifications; and procedures to better align and integrate Section 408 with certain reviews conducted by USACE's Regulatory Program. Note, the Section 408 database described in the EC is undergoing testing and will not be available for use by USACE until late calendar year 2018.

EC 1165-2-220 expires two years from issuance, which provides USACE time consider implementation experience to identify any necessary clarifications or changes. After two years, EC 1165-2-220 will either be revised, rescinded, or converted to an Engineer

Regulation, which does not expire. Feedback on implementation of EC 1165-2-220 may be sent to HQ-Section408@usace.army.mil.

Dated: September 5, 2018.

James C. Dalton,

Director of Civil Works.

[FR Doc. 2018-19926 Filed: 9/12/2018 8:45 am; Publication Date: 9/13/2018]